

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see section 610 of Pub. L. 87-793.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior in view of: creation of National Oceanic and Atmospheric Administration in Department of Commerce and Office of Administrator of such Administration; abolition of Bureau of Commercial Fisheries in the Interior Department and Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in Secretary of the Interior or the Interior Department which were administered through Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

FEES FOR TRAINING BY NATIONAL CONSERVATION TRAINING CENTER

Pub. L. 104-208, div. A, title I, §101(d) [title I], Sept. 30, 1996, 110 Stat. 3009-181, 3009-185, as amended by Pub. L. 105-83, title I, Nov. 14, 1997, 111 Stat. 1547, provided in part: "That hereafter, pursuant to 31 U.S.C. 9701, the Secretary shall charge reasonable fees for the full costs of providing training by the National Conservation Training Center, to be credited to this account, notwithstanding 31 U.S.C. 3302, for the full costs of providing such training, to remain available until expended."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1534 of this title.

§ 742b-1. Assistant Director for Wildlife and Sport Fish Restoration Programs**(a) Establishment**

There is established in the United States Fish and Wildlife Service of the Department of the Interior the position of Assistant Director for Wildlife and Sport Fish Restoration Programs.

(b) Superior

The Assistant Director for Wildlife and Sport Fish Restoration Programs shall report directly to the Director of the United States Fish and Wildlife Service.

(c) Responsibilities

The Assistant Director for Wildlife and Sport Fish Restoration Programs shall be responsible for the administration, management, and oversight of the Federal Assistance Program for State Wildlife and Sport Fish Restoration under the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.).

(Pub. L. 106-408, title I, §132, Nov. 1, 2000, 114 Stat. 1775.)

REFERENCES IN TEXT

The Pittman-Robertson Wildlife Restoration Act, referred to in subsec. (c), is act Sept. 2, 1937, ch. 899, 50 Stat. 917, as amended, also known as the Federal Aid in Wildlife Restoration Act, which is classified generally to chapter 5B (§669 et seq.) of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 669 of this title and Tables.

The Dingell-Johnson Sport Fish Restoration Act, referred to in subsec. (c), is act Aug. 9, 1950, ch. 658, 64 Stat. 430, as amended, also known as the Federal Aid in Fish Restoration Act and the Fish Restoration and Management Projects Act, which is classified generally to chapter 10B (§777 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 777 of this title and Tables.

§ 742c. Loans for financing or refinancing of cost of purchasing, constructing, equipping, maintaining, repairing, or operating commercial fishing vessels or gear**(a) Authorization**

The Secretary of the Interior is authorized, under such rules and regulations and under such terms and conditions as he may prescribe, to make loans for financing or refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear.

(b) Conditions

Any loans made under the provisions of this section shall be subject to the following restrictions:

(1) Bear an interest rate of not less than (a) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose.

(2) Mature in not more than ten years, except that where a loan is for all or part of the costs of constructing a new fishing vessel, such period may be fourteen years.

(3) No financial assistance shall be extended pursuant to this section unless reasonable financial assistance applied for is not otherwise available on reasonable terms.

(4) Loans shall be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require considering the objectives of this section which are to upgrade commercial fishing vessels and gear and to provide reasonable financial assistance not otherwise available to commercial fishermen. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured.

(5) The applicant shall possess the ability, experience, resources, and other qualifications necessary to enable him to operate and maintain new or used commercial fishing vessels or gear.

(6) Before the Secretary approves a loan for the purchase or construction of a new or used vessel which will not replace an existing commercial fishing vessel, he shall determine that the applicant's contemplated operation of such vessel in a fishery will not cause economic hardship or injury to the efficient vessel operators already operating in that fishery.

(7) An applicant for a fishery loan must be a citizen or national of the United States.

(8) Within the meaning of this section, a corporation, partnership, or association shall not be deemed to be a citizen of the United States unless the Secretary determines that it satisfactorily meets all of the requirements set forth in sections 802 and 803 of title 46, Appendix, for determining the United States citizenship of a corporation, partnership, or association operating a vessel in the coastwise trade.

(9)(A) The nationality of an applicant shall be established to the satisfaction of the Secretary. Within the meaning of this section, no corporation, partnership, or association organized under the laws of American Samoa shall be deemed a national of the United States unless 75 per centum of the interest therein is owned by nationals of the United States, citizens of the United States, or both, and in the case of a corporation, unless its president or other chief executive officer and the chairman of its board are nationals or citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are nonnationals and noncitizens.

(B) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by nationals of the United States, citizens of the United States, or both, (i) if the title to 75 per centum of its stock is not vested in such nationals and citizens free from any trust or fiduciary obligation in favor of any person not a national or citizen of the United States; or (ii) if 75 per centum of the voting power in such corporation is not vested in nationals of the United States, citizens of the United States, or both; or (iii) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a national or citizen of the United States; or (iv) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a national or citizen of the United States.

(c) Fisheries loan fund; interest payments on appropriations available as capital to the fund less average undispersed cash balance

There is created a fisheries loan fund, which shall be used by the Secretary as a revolving fund to make loans for financing and refinancing under this section. Any funds received by the Secretary on or before September 30, 1986, in payment of principal or interest on any loans so made shall be deposited in the fund and be available for making additional loans under this section. Any funds received in the fisheries loan fund after September 30, 1986, shall be covered into the Treasury as miscellaneous receipts. There is authorized to be appropriated to the fisheries loan fund the sum of \$20,000,000 to provide initial capital.

(d) Modification of loan contract

The Secretary, subject to the specific limitations in this section, may consent to the modification, with respect to the rate of interest,

time of payment of any installment of principal, or security, of any loan contract to which he is a party.

(e) Chartering vessels; loans to Alaskan earthquake victims; termination date

The Secretary is authorized under such terms and conditions and pursuant to regulations prescribed by him to use the funds appropriated under this section to make loans to commercial fishermen for the purpose of chartering fishing vessels pending the construction or repair of vessels lost, destroyed, or damaged by the earthquake of March 27, 1964, and subsequent tidal waves related thereto: *Provided*, That any loans made under this subsection shall only be repaid from the net profits of the operations of such chartered vessels, which profits shall be reduced by such reasonable amount as determined by the Secretary for the salary of the fishermen chartering such vessels. The funds authorized herein shall not be available for such loans after June 30, 1966.

(Aug. 8, 1956, ch. 1036, § 4, 70 Stat. 1121; Pub. L. 85-888, Sept. 2, 1958, 72 Stat. 1710; Pub. L. 88-309, § 9, May 20, 1964, 78 Stat. 199; Pub. L. 89-85, §§ 1-4, July 24, 1965, 79 Stat. 262; Pub. L. 91-279, § 9, June 12, 1970, 84 Stat. 309; Pub. L. 91-387, §§ 1, 2, Aug. 24, 1970, 84 Stat. 829; Pub. L. 94-273, § 2(8), Apr. 21, 1976, 90 Stat. 375; Pub. L. 96-478, § 16(a), Oct. 21, 1980, 94 Stat. 2303; Pub. L. 97-347, § 1, Oct. 18, 1982, 96 Stat. 1652; Pub. L. 98-44, title I, § 103(a)(1), July 12, 1983, 97 Stat. 216; Pub. L. 98-498, title IV, § 430(1), Oct. 19, 1984, 98 Stat. 2310; Pub. L. 99-659, title IV, § 409, Nov. 14, 1986, 100 Stat. 3740.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-659 amended third sentence generally, striking out “and any balance remaining therein at the close of September 30, 1986 (at which time the fund shall cease to exist),” after “1986,”.

1984—Subsec. (c). Pub. L. 98-498 substituted “September 30, 1986” for “September 30, 1984” wherever appearing.

1983—Subsec. (c). Pub. L. 98-44 substituted “September 30, 1984” for “September 30, 1983” wherever appearing.

1982—Subsec. (c). Pub. L. 97-347 substituted “September 30, 1983” for “September 30, 1982” wherever appearing.

1980—Subsec. (c). Pub. L. 96-478 substituted “September 30, 1982” for “September 30, 1980” wherever appearing and struck out interest payment provisions respecting, payment at close of each fiscal year from fisheries loan fund into miscellaneous receipts of the Treasury on cumulative amount of appropriations available as capital to the fund from and after July 1, 1965, less average undispersed balance in the fund during the year, determination of interest rate on basis of average market yield during month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to average maturity of loans made from the fund, and interest payment deferrals approved by the Secretary of the Treasury subject to interest on deferred amounts.

1976—Subsec. (c). Pub. L. 94-273 substituted “September” for “June” wherever appearing.

1970—Subsec. (b)(2). Pub. L. 91-279 provided maturity period of fourteen years for loans for all or part of costs of constructing new fishing vessels.

Subsec. (b)(7). Pub. L. 91-387, § 2, permitted a national of the United States to be an applicant for a fishery loan.

Subsec. (b)(8). Pub. L. 91-387, § 2, substituted provision for Secretary’s determination of United States citizen-

ship of a corporation, partnership, or association by satisfactorily meeting all requirements set forth in section 802 of title 46 for determination of citizenship of such entity operating a vessel in coastwise trade, for prior provision for establishment of such citizenship within meaning of section 802 of title 46 to satisfaction of the Secretary.

Subsec. (b)(9). Pub. L. 91-387, §2, added par. (9).

Subsec. (c). Pub. L. 91-387, §1, extended term for making fisheries loans, substituting "June 30, 1980" for "June 30, 1970" wherever appearing.

1965—Subsec. (a). Pub. L. 89-85, §1, substituted "financing or refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear" for "financing and refinancing of operations, maintenance, replacement, repair, and equipment of fishing gear and vessels" and struck out provision for research into basic problems of fisheries.

Subsec. (b). Pub. L. 89-85, §§2, 3, substituted in par. (1) provision respecting determination of interest rate taking into consideration average market yield on outstanding Treasury obligations of comparable maturity plus additional charge toward coverage of other costs of program for former provision prescribing an interest rate of not less than 3 per centum per annum and added pars. (4) to (8), respectively.

Subsec. (c). Pub. L. 89-85, §4, extended term for making fisheries loans from June 30, 1965, to June 30, 1970, required Secretary to pay at end of each fiscal year into miscellaneous receipts of the Treasury interest on cumulative amount of appropriations available as capital to fund after July 1, 1965, less average undispersed cash balance in fund during the year, provided formula for determination of rate of interest, and authorized deferral of interest payments but with payment of interest on deferred payments.

1964—Subsec. (e). Pub. L. 88-309 added subsec. (e).

1958—Subsec. (c). Pub. L. 85-888 increased authorization for \$10,000,000 to \$20,000,000.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 16(b) of Pub. L. 96-478 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on September 1, 1980."

EFFECTIVE DATE OF 1970 AMENDMENT; FISHERIES LOAN FUND AVAILABLE FOR LOANS FROM JULY 1, 1970 TO CLOSE OF JUNE 30, 1980

Section 3 of Pub. L. 91-387 provided that: "The provisions of this Act [amending this section] shall be effective July 1, 1970. Notwithstanding the provisions of section 4(c) of the Fish and Wildlife Act of 1956, as amended [subsec. (c) of this section], any balance remaining in the fisheries loan fund at the close of June 30, 1970, shall be available to make loans for the purposes of section 4 of said Act [this section] from July 1, 1970, to the close of June 30, 1980."

EFFECTIVE DATE OF 1965 AMENDMENT; REMAINING FUNDS; AVAILABILITY FOR LOANS

Section 5 of Pub. L. 89-85 provided that: "The provisions of this Act [amending this section] shall be effective July 1, 1965. Notwithstanding the provisions of section 4(c) of the Fish and Wildlife Act of 1956, as amended [subsec. (c) of this section], any balance remaining in the fisheries loan fund at the close of June 30, 1965, shall be available to make loans for the purposes of section 4 of said Act [this section] from July 1, 1965, to the close of June 30, 1970."

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

LOANS UNDER FISH AND WILDLIFE ACT OF 1956

Pub. L. 96-561, title II, §221, Dec. 22, 1980, 94 Stat. 3295, as amended by Pub. L. 98-44, title I, §103(b), July 12,

1983, 97 Stat. 216; Pub. L. 98-498, title IV, §431, Oct. 19, 1984, 98 Stat. 2310, provided that:

"(a) LOAN AUTHORITY.—During the period beginning on the date of the enactment of this title [Dec. 22, 1980] and ending at the close of September 30, 1986, the Secretary of Commerce (hereinafter in this section referred to as the 'Secretary') may make loans from the fisheries loan fund established under subsection (c) of section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) only for the purposes set forth in subsections (b) and (c) of this section. Except to the extent that they are inconsistent with, or contrary to, this section, the provisions of such section 4 shall apply with respect to loans made for such purposes.

"(b) LOANS TO AVOID DEFAULT ON OBLIGATIONS COVERING FISHING VESSELS.—(1) The Secretary may make loans for the purpose of assisting obligors to avoid default on obligations that are issued with respect to the construction, reconstruction, reconditioning or purchase of fishing vessels and that—

"(A) are guaranteed by the United States under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280, relating to Federal ship mortgage insurance); or

"(B) are not guaranteed under such title XI, but the fishing vessels concerned meet the use and documentation requirements, and the obligors meet the citizenship requirements, that would apply if the obligations were guaranteed under that title.

"(2)(A) Within the 30-day period beginning on the date of the enactment of this title [Dec. 22, 1980] in the case of fiscal year 1981, and before the beginning of each of fiscal years 1982, 1983, 1984, 1985, and 1986, the Secretary shall estimate the number, and the aggregate amount, of loans described in paragraph (1)(A) for which application will likely be made during each of such fiscal years and shall reserve that amount in the fisheries loan fund for the purpose of making such loans during such year (or if such amount is larger than the fund balance, the Secretary shall reserve the whole fund for such purpose).

"(B) If any moneys are available in the fisheries loan fund for each such fiscal year after subparagraph (A) is complied with for that year, the Secretary shall use such moneys for the purpose of making loans described in paragraph (1)(B) during that year.

"(C) At an appropriate time during each of fiscal years 1981, 1982, 1983, 1984, 1985, and 1986, the Secretary shall compare the actual loan experience during that year with the estimate made for that year under subparagraph (A) and if the Secretary determines, on the basis of such comparison, that the demand for loans described in paragraph (1)(A) will be less than estimated, the Secretary shall, for the fiscal year concerned, apply moneys reserved for such loans for the purpose of making loans described in paragraph (1)(B) and, to the extent not utilized for loans described in paragraph (1)(B), for the purpose of making loans under subsection (c).

"(3) The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operations, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. Each such loan shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purpose of this subsection. In establishing such terms and conditions, the Secretary shall take into account, among such other factors he deems pertinent, the extent to which the obligations concerned have been retired, and the overall financial condition of the obligors. The interest rate on loans made under the authority of this subsection shall not exceed that rate determined by the Secretary to be sufficient to cover the costs incurred in processing and servicing of such loans.

“(c) LOANS TO COVER OPERATING LOSSES.—(1) If the Secretary determines that moneys will be available in such fisheries loan fund for any of fiscal years 1981, 1982, 1983, 1984, 1985, and 1986, after loans under subsection (b) are provided for for that year, the Secretary may make loans for the purpose of assisting owners and operators of fishing vessels to cover vessel operating expenses in cases where an owner or operator incurs, or may incur, a net operating loss within such fiscal year.

“(2) Each loan made by the Secretary under this subsection shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purposes of this subsection. The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. The interest rate on loans made under this subsection shall be the rate prevailing for loans made under the Emergency Agricultural Credit Act of 1978 (7 U.S.C. preceding 1961 note).”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 742c-1, 742k, 1534 of this title.

§ 742c-1. Investment in obligations of the United States; proceeds to be used for fisheries

All moneys in the Fisheries Loan Fund established under Section¹ 742c of this title shall be invested by the Secretary of Commerce in obligations of the United States, except so much as shall be currently needed for loans or administrative expenses authorized under the Fisheries Loan Fund. All accrued proceeds from such investment shall be, subject to amounts provided in advance by appropriations, credited by the Secretary of the Treasury to the debt of the Secretary of Commerce incurred under section 1105(d) of the Merchant Marine Act, 1936 [46 App. U.S.C. 1275(d)], as amended, in connection with fisheries financing under title XI of the Merchant Marine Act, 1936 [46 App. U.S.C. 1271 et seq.], as amended, for so long as such debt exists. All accrued proceeds from such investment, after such debt has been liquidated, shall be, subject to amounts provided in advance by appropriations, credited to the fisheries portion of the Federal Ship Financing Fund established under section 1102 of the Merchant Marine Act, 1936 [46 App. U.S.C. 1272], as amended, and used for the fisheries purposes provided in title XI of the Merchant Marine Act, 1936, as amended.

(Pub. L. 98-498, title IV, § 432, Oct. 19, 1984, 98 Stat. 2310.)

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in text, is act June 29, 1936, ch. 858, 49 Stat. 1985, as amended. Title XI of the Merchant Marine Act, 1936, is classified generally to subchapter XI (§1271 et seq.) of chapter 27 of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1245 of Title 46, Appendix, and Tables.

¹ So in original. Probably should not be capitalized.

§ 742d. Investigations; preparation and dissemination of information; reports

(a)¹ The Secretary shall conduct continuing investigations, prepare and disseminate information, and make periodical reports to the public, to the President, and to Congress, with respect to the following matters:

(1) The production and flow to market of fish and fishery products domestically produced, and also those produced by foreign producers which affect the domestic fisheries;

(2) The availability and abundance and the biological requirements of the fish and wildlife resources;

(3) The competitive economic position of the various fish and fishery products with respect to each other, and with respect to competitive domestic and foreign-produced commodities;

(4) The collection and dissemination of statistics on commercial and sport fishing;

(5) The collection and dissemination of statistics on the nature and availability of wildlife, progress in acquisition of additional refuges and measures being taken to foster a coordinated program to encourage and develop wildlife values;

(6) The improvement of production and marketing practices in regard to commercial species and the conduct of educational and extension services relative to commercial and sport fishing, and wildlife matters;

(7) Any other matters which in the judgment of the Secretary are of public interest in connection with any phases of fish and wildlife operations.

(Aug. 8, 1956, ch. 1036, § 5, 70 Stat. 1121.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report to Congress required under this section is listed on page 54), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1534 of this title.

§ 742d-1. Studies of effects in use of chemicals

The Administrator of the Environmental Protection Agency is authorized and directed to undertake comprehensive continuing studies on the effects of insecticides, herbicides, fungicides and pesticides, upon the fish and wildlife resources of the United States, for the purpose of determining the amounts, percentages, and formulations of such chemicals that are lethal to or injurious to fish and wildlife and the amounts, percentages, mixtures, or formulations that can be used safely, and thereby prevent losses of fish and wildlife from such spraying, dusting, or other treatment.

¹ So in original. No subsec. (b) has been enacted.